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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/591,731	09/01/2006	Matteo Zoppas	NOTAR10.002APC	3111

20995 7590 06/02/2009  
KNOBBE MARTENS OLSON & BEAR LLP  
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IRVINE, CA 92614

EXAMINER
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LUK, EMMANUEL S

ART UNIT	PAPER NUMBER
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1791

NOTIFICATION DATE	DELIVERY MODE
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06/02/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com  
eOAPilot@kmob.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/591,731	<b>Applicant(s)</b> ZOPPAS ET AL.	
	<b>Examiner</b> EMMANUEL S. LUK	<b>Art Unit</b> 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/12/09</u> .   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Claims 1-11 are pending.

#### ***Response to Arguments***

2. Applicant's arguments, filed 3/9/09, with respect to the rejection(s) of claim(s) 1-11 under van Manen have been fully considered but are not persuasive.

In regards to claims 1-11, the arguments set forth concerning the van Manen reference is persuasive. However, upon further review of the claims, claim 1 is indefinite with the claimed the "first side having the first cavities and the second side facing the first side on which are located the respective insertion openings of the second cavities". This is unclear of how the second side of the turret facing the first side interacts with the first side if the first and second sides face one another. The disclosure utilizes a different wording with "first group of cups 21 face the first side A of the rotating turret... second group of cups 21 face the second side B of the rotating turret" as set forth on page 4 of the disclosure, lines 20 to 25. The further claim limitation of the first conditioning cavities being located such that it is side by side with the second conditioning cavities could be interpreted as either with the first and second sides of the turret being on opposite facings of the turret or the first and second sides are the same side, and both interpretations would have the conditioning cavities being side by side. The structure of claim 1 does not reflect structure as presented in Figure 4A as presented by the applicant's arguments on page 6. The arrangement of the cavities in van Manen would read upon the second interpretation with the cavities and sides being the same side with the facings being the patterns of the products being

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placed in the cavities. It is noted that van Manen does not teach a structure that would have the first and second sides on opposite faces of the turret with the first and second groups of cavities of the respective faces being in a side by side orientation.

3. Claims 6, 7, and 9 have failed to invoke means plus function pursuant to 35 U.S.C. 112, sixth paragraph. Where means plus function language is used to define the characteristics of a machine or manufacture invention, claim limitations must be interpreted to read on only the structures or materials disclosed in the specification and "equivalents thereof." (Two en banc decisions of the Federal Circuit have made clear that the Office is to interpret means plus function language according to 35 U.S.C. 112, sixth paragraph. In the first, *In re Donaldson*, 16 F.3d 1189, 1193, 29 USPQ2d 1845, 1848 (Fed. Cir. 1994), the court held:

The plain and unambiguous meaning of paragraph six is that one construing means-plus-function language in a claim must look to the specification and interpret that language in light of the corresponding structure, material, or acts described therein, and equivalents thereof, to the extent that the specification provides such disclosure.

The term "handling means" are insufficient to invoke means plus function and it is necessary to claim "means for" plus the functional language to properly invoke means plus language pursuant to U.S.C. 112, sixth paragraph.

#### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 6, 7 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are indefinite for failing to particularly point out or distinctly claim the subject matter as the handling means do not properly invoke means plus function language.

6. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, the second side of the turret facing the first side does not particularly point out the structure.

***Claim Rejections - 35 USC § 102***

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by van Manen 5569476.

Manen teaches the claimed apparatus and method for conditioning objects in plastic material, the device having a turret 45 that is introduced between two mold halves 50a, 50b, and transferring a group of the objects onto one side of the turret 44, the turret being tilted to different cooling positions A, B, C, D. The turret having cooling channels (Col. 5, lines 9-11) and the turret also having the individual casings within to

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hold the objects (see Fig. 8 and 9). The operation of the device includes the claimed method of bringing the turret into position between the molds and removing the objects.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Neter 6171541, Chen 6391244, and Unterlander 6986653.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to EMMANUEL S. LUK whose telephone number is (571)272-1134. The examiner can normally be reached on Monday-Fridays from 9 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra N. Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Yogendra N Gupta/

Supervisory Patent Examiner, Art Unit 1791

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